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04/01/2009

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EXAMINER

NGUYEN, TOAN D

ART UNIT

PAPER NUMBER

2416

MAIL DATE

DELIVERY MODE

04/01/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/647,964	<b>Applicant(s)</b> SAKODA ET AL.	
	<b>Examiner</b> TOAN D. NGUYEN	<b>Art Unit</b> 2416	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,3-9,11-15,17,25 and 27-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,3-9,11-15,17,25 and 27-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 October 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

**DETAILED ACTION**

1. In view of the Pre-Brief Conference request filed on 12/15/08, PROSECUTION IS HEREBY REOPENED. A non-final office action is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein

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were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 1, 6, 9, 11-13, 17, 25 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura et al. (US 5,913,039) in view of Baptist et al. (US 5,465,392).

For claims 1 and 6, Nakamura et al. disclose video on demand system with a transmission schedule table in the video server including entries for client identifiers, video titles, and reproduction start times, comprising:

the server apparatus (figure 5, reference 520, col.9, line 16) comprising:

a storage unit for storing the contents information file (figure 5, reference 526, col. 9, line 18-19);

a first transceiver for communication with the terminal apparatus (figure 5, reference 501) and for receiving the request signal from the terminal apparatus requesting the contents information file (col. 10, lines 56-58, and col. 12, lines 37-38); and

a first controller (figure 5, reference 523, col. 9, line 17) for:

scheduling a distribution time period in which the requested contents information file is distributed over a communication line in accordance with the request signal and

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based on a state of the communication line (col. 10, line 64 to col.11, line 1, and col. 12, lines 54-65),

controlling the transmission of information about the distribution time period to the terminal apparatus (col. 11, lines 2-13, and col. 12, lines 54-65), and

controlling the distribution of the contents information file to the terminal apparatus through the first transceiver in the distribution time period (col. 11, lines 43-55, and col. 13, lines 5-8), and

the terminal apparatus (figure 5, col. 9, line 9) comprising:

a second transceiver for communication with the server apparatus (col. 9, line 10);

a counter for internally measuring time (figure 5, reference 515, col. 9, line 11);

a second storage unit for storing information (figure 5, reference 514, col. 9, line 11); and

a second controller (figure 5, reference 512, col. 9, line 10) for:

generating the request signal for requesting the distribution of the contents information file (col. 12, lines 35-37),

controlling the transmission of the requested signal to the server apparatus through the second transceiver (col. 12, lines 35-38),

controlling the reception of the contents information file distributed by the server apparatus in the distribution time period by the server apparatus (col. 12, lines 37-43), wherein

the request signal comprises a time limit information indicating a deadline for the distribution of the contents information file (figure 7, col. 11, lines 35-37, and col. 12, lines 35-37);

the first controller schedules the distribution time period based on the deadline for the distribution (col. 10, line 64 to col. 11, line 13, and col. 12, lines 54-65).

However, Nakamura et al. do not expressly disclose:

a power supply for controlling the supply for power to each portion of the terminal apparatus; and

controlling the supply of power by the power supply based on the information about the distribution time period.

In an analogous art, Baptist et al. disclose:

a power supply (figure 3, reference 70) for controlling the supply for power to each portion of the terminal apparatus (figure 1, reference 24)(col. 3, lines 22-25); and

controlling the supply of power by the power supply based on the information about the distribution time period (col. 3, lines 39-42).

Baptist et al. disclose wherein the second transceiver of the terminal apparatus communicates with the server apparatus through a wireless transmission base station (col. 2, line 66 to col.3, line 3 as set forth in claim 6).

One skilled in the art would have recognized the power supply for controlling the supply for power to each portion of the terminal apparatus, and would have applied Baptist et al.'s battery power source 70 in Nakamura et al.'s client 101. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to

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use Baptist et al.'s apparatus and method for operating a wireless local area network having power conservation in Nakamura et al.'s video on demand system with a transmission schedule table in the video server including entries for client identifiers, video titles, and reproduction start times with the motivation being to control the wireless transceiver 60 (col. 3, lines 40-44).

For claims 9, 11-13, and 17, Nakamura et al. disclose video on demand system with a transmission schedule table in the video server including entries for client identifiers, video titles, and reproduction start times, comprising:

- transceiver for communicating with the server apparatus (col. 9, line 10);
- a counter for internally measuring time (figure 5, reference 515, col. 9, line 11);
- a storage unit for storing information (figure 5, reference 514, col. 9, line 11);
- a controller (figure 5, reference 512, col. 9, line 10) for generating a request signal for requesting the distribution of the contents information file (col. 12, lines 35-37), for controlling the transmission of the requested signal to the server apparatus through the transceiver (col. 12, lines 35-38), for controlling the reception of the contents information file distributed by the server apparatus in a distribution time period scheduled by the server apparatus (col. 12, lines 37-43), and

wherein the request signal comprises a signal including a time limit information indicating a deadline for the distribution of the content information file (figure 7, col. 11, lines 35-37, and col. 12, lines 35-37), and the distribution time period is determined based on the time limit information (col. 10, line 64 to col. 11, line 13, and col. 12, lines 54-65).

Nakamura et al. disclose comprising an interface for providing information to a user, wherein the controller provides the distribution time period to the interface (col. 9, line 9 as set forth in claim 11); and wherein the controller generates the request signal comprising a signal including distribution information designating a desired region or desired time band or both for the distribution of the contents information file (col. 12, lines 54-65 as set forth in claim 13).

However, Nakamura et al. do not expressly disclose:

a power supply for controlling the supply for power to each portion of the terminal apparatus; and

for controlling the supply of power by the power supply based on the information about the distribution time period.

In an analogous art, Baptist et al. disclose:

a power supply (figure 3, reference 70) for controlling the supply for power to each portion of the terminal apparatus (figure 1, reference 24)(col. 3, lines 22-25); and

for controlling the supply of power by the power supply based on the information about the distribution time period (col. 3, lines 39-42).

Baptist et al. disclose wherein the transceiver communicates with the server apparatus through a wireless transmission base station (col. 2, line 66 to col.3, line 3 as set forth in claim 12); and wherein the controller is configured to stop the supply of power from the power supply when the reception of the content information file distributed from the server apparatus ends (col. 3, lines 51-52 as set forth in claim 17).

One skilled in the art would have recognized the power supply for controlling the supply for power to each portion of the terminal apparatus, and would have applied Baptist et al.'s battery power source 70 in Nakamura et al.'s client 101. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Baptist et al.'s apparatus and method for operating a wireless local area network having power conservation in Nakamura et al.'s video on demand system with a transmission schedule table in the video server including entries for client identifiers, video titles, and reproduction start times with the motivation being to control the wireless transceiver 60 (col. 3, lines 40-44).

For claims 25 and 30, Nakamura et al. disclose video on demand system with a transmission schedule table in the video server including entries for client identifiers, video titles, and reproduction start times, comprising:

generating, in the terminal apparatus a request signal requesting distribution of the contents information file (col. 12, lines 35-37), the request signal including the time limit information indicating a deadline for the distribution of the content information file (figure 7, col. 11, lines 35-37, and col. 12, lines 35-37);

transmitting the request signal from the terminal apparatus to the server apparatus (col. 12, lines 35-37);

scheduling, in the server apparatus a distribution time period for the distribution over a communication line in accordance with the request signal and based on the deadline and a state of the communication line (col. 10, line 64 to col.11, line 1, and col. 12, lines 54-65);

transmitting information about the distribution time period from the server apparatus to the terminal apparatus (col. 11, lines 2-13, and col. 12, lines 54-65);

distributing the contents information file from the server apparatus to the terminal apparatus in the distribution time period (col. 11, lines 43-55, and col. 13, lines 5-8), and

receiving, in the terminal apparatus, the contents information file distributed from the server apparatus (col. 13, lines 9-10).

However, Nakamura et al. do not expressly disclose:

controlling the supply power supply for one or more portions of the terminal apparatus by starting the supply of power based on the transmitted information about the distribution time period.

In an analogous art, Baptist et al. disclose:

controlling the supply power supply (figure 3, reference 70) for one or more portions of the terminal apparatus by starting the supply of power based on the transmitted information about the distribution time period (col. 3, lines 39-42).

Baptist et al. disclose wherein the terminal apparatus communicates with the server apparatus through a wireless transmission base station (col. 2, line 66 to col.3, line 3 as set forth in claim 30).

One skilled in the art would have recognized the power supply for controlling the supply for power to each portion of the terminal apparatus, and would have applied Baptist et al.'s battery power source 70 in Nakamura et al.'s client 101. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Baptist et al.'s apparatus and method for operating a wireless local area network

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having power conservation in Nakamura et al.'s video on demand system with a transmission schedule table in the video server including entries for client identifiers, video titles, and reproduction start times with the motivation being to control the wireless transceiver 60 (col. 3, lines 40-44).

5. Claims 3-4, 15, 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura et al. (US 5,913,039) in view of Baptist et al. (US 5,465,392) further in view of Aitkenheadi et al. (US 5,493,695).

For claims 3-4, 15, 27 and 28, Nakamura et al. in view of Baptist do not expressly disclose wherein the first controller of the server apparatus detects a traffic load of the communication line and distributes the contents information file when the traffic load is small. In an analogous art, Aitkenheadi et al. disclose wherein the first controller of the server apparatus detects a traffic load of the communication line and distributes the contents information file when the traffic load is small (col. 3, lines 52-54).

Aitkenheadi et al. disclose wherein the terminal apparatus further comprises an interface for providing information to a user, the server apparatus schedules the distribution time period by estimating a period time before the time limit for the distribution when the traffic load of the communication line is small, controls notification of the distribution time period to the terminal apparatus, and schedules the distribution of the contents information file in the distribution time period (col. 5, lines 40-41 as set forth in claim 4), and wherein the terminal apparatus receives a period of time from the server apparatus and provides to the interface the period of time before the time limit for the distribution and time band in which a traffic load of a communication line is small

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(col. 5, lines 40-41 as set forth in claim 15); wherein the server apparatus detects a traffic load of the communication line and schedules the distribution of the contents information file when the traffic load is small (col. 3, lines 52-54 as set forth in claim 27); wherein, when receiving the request signal, the server apparatus schedules the distribution time period by estimating a period of time before the time limit for the distribution when a traffic load of the communication line is small, sends a notification of the distribution time period to the terminal apparatus, and distributes the contents information file in the distribution time period (col. 5, lines 40-41 as set forth in claim 28).

One skilled in the art would have recognized the wherein the first controller of the server apparatus detects a traffic load of the communication line and distributes the contents information file at a period of time when the traffic load is small, and would have applied Aitkenhead et al.'s traffic monitoring in Nakamura et al.'s server 520. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Aitkenhead et al.'s trunking radio system with frequency diversity in Nakamura et al.'s video on demand system with a transmission schedule table in the video server including entries for client identifiers, video titles, and reproduction start times with the motivation being to provide the traffic monitoring means 25 of the controller to determine that there is more than one channel available for allocation (col. 3, lines 50-52).

6. Claims 5, 7-8, 14, 29 and 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nakamura et al. (US 5,913,039) in view of Baptist et al. (US 5,465,392) further in view of Abecassis (US 6,553,178).

For claim 5, Nakamura et al. in view of Baptist et al. do not expressly disclose wherein the first controller of the server apparatus calculates an amount of charge for the distribution of the contents information file based on a length of time until the time limit for the distribution and performs processing for charging the terminal apparatus based on the calculated amount of charge. In an analogous art, Abecassis discloses wherein the first controller of the server apparatus calculates an amount of charge for the distribution of the contents information file based on a length of time until the time limit for the distribution and performs processing for charging the terminal apparatus based on the calculated amount of charge (col. 36, lines 10-33).

Abecassis discloses wherein the first controller of the server apparatus calculates an amount of charge for the distribution of the contents information file based on an efficiency of use of a communication resource in communication between the terminal apparatus and the wireless transmission base station and performs processing for charging the terminal apparatus based on the calculated amount of charge (col. 36, lines 10-33 as set forth in claim 7), and wherein the first controller of the server apparatus calculates cost information indicating communication costs based on the state of the communication line by region, by time band, or by time band for individual regions and controls the system for distribution of the calculated cost information to the terminal apparatus; the second controller of the terminal apparatus generates the request signal comprising a signal including distribution information designating a desired region or desired time band or both for the distribution of the contents information file; and the server apparatus schedules the system for the distribution of

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the contents information file to the designated region and time band based on the request signal (col. 36, lines 10-33 as set forth in claim 8); wherein the controller receives cost information from the server apparatus and provides to the user through the interface the cost information based on a state of a communication line by region, by time band, or by time band for individual regions (col. 36, lines 10-33 as set forth in claim 14); wherein the request signal included time limit information indicating a deadline for the distribution of the contents information file; wherein the server apparatus calculates an amount of charge for the distribution of the content information file based on a length of time until the time limit for the distribution and performs processing for charging the terminal apparatus based on the calculated amount of charge (col. 36, lines 10-33 as set forth in claim 29); wherein the server apparatus calculates an amount of charge for the distribution of the contents information file based on an efficiency of use of a communication resource in communication between the terminal apparatus and the wireless communication base station and performs processing for charging the terminal apparatus based on the calculated amount of charge (col. 36, lines 10-33 as set forth in claim 31); and wherein the server apparatus calculates cost information indicating communication costs based on the state of the communication line by region, by time band, or by time band for individual regions and controls the system for distribution of the calculated cost information to the terminal apparatus; the terminal apparatus generates the signal request comprising a signal including distribution information designating a region or time band or both for the distribution of the contents information file; and the server apparatus schedules the

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distribution of the contents information file to the designated region and time band based on the request signal (col. 36, lines 10-33 as set forth in claim 32).

One skilled in the art would have recognized the wherein the first controller of the server apparatus calculates an amount of charge for the distribution of the contents information file based on a length of time until the time limit for the distribution and performs processing for charging the terminal apparatus based on the calculated amount of charge, and would have applied Abecassis' providers in Nakamura et al.'s server 520. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention, to use Abecassis' advertisement subsidized video-on-demand system in Nakamura et al.'s video on demand system with a transmission schedule table in the video server including entries for client identifiers, video titles, and reproduction start times with the motivation being to provide the billing methods and apparatus (col. 36, lines 34-36).

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to TOAN D. NGUYEN whose telephone number is (571)272-3153. The examiner can normally be reached on M-F (7:00AM-4:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Trost can be reached on 571-272-7872. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. D. N./  
Examiner, Art Unit 2416

/William Trost/

Supervisory Patent Examiner, Art Unit 2416